SRI v. ISS and Symantec

Exhibit 1 to the Proposed Pre-Trial Order

STATEMENT OF FACTS WHICH ARE ADMITTED
AND REQUIRE NO PROOF L.R. 16.4(d)(3)

1.   SRI International, Inc. ("SRI") is a not-for-profit research institute incorporated under the laws of California, and has a regular and established place of business at 333 Ravenswood Avenue, Menlo Park, California 94025.

2.   Defendant Internet Security Systems, Inc. of Delaware ("ISS-DE") is incorporated under the laws of Delaware, with its principal place of business at 6303 Barfield Road, Atlanta, Georgia 30328.

3.   Defendant Internet Security Systems, Inc. of Georgia ("ISS-GA") is incorporated under the laws of Georgia, with its principal place of business at 6303 Barfield Road, Atlanta, Georgia 30328. ISS-DE and ISS-GA are referred to collectively as "ISS."

4.   Defendant Symantec Corporation ("Symantec") is incorporated under the laws of Delaware, with its principal place of business at 20330 Stevens Creek Boulevard, Cupertino, California 95014.

5.   This action arises under the patent laws of the United States, Title 35 U.S.C. § 1, et seq. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

6.   This Court has personal jurisdiction over the parties.

7.   Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400 because each of the defendants is subject to personal jurisdiction in this judicial district.

8.   There are three patents at issue remaining to be tried in this case (" the Patents-in-Suit"). Each of the Patents-in-Suit names as inventors Phillip Porras and Alfonso Valdes and each is assigned to SRI. The Patents-in-Suit are:

   a.   United States Patent No. 6,321,338 B1 (" the '338 patent") entitled "Network Surveillance," issued on November 20, 2001;

   b.   United States Patent No. 6,484,203 B1 (" the '203 patent") entitled "Hierarchical Event Monitoring and Analysis," issued on November 19, 2002; and

   c.   United States Patent No. 6,711,615 B2 (" the '615 patent") entitled "Network Surveillance," issued on March 23, 2004.

9.   The '338 patent was filed on November 9, 1998. The '203, and '615 patents were filed as continuation applications and have a priority filing date of November 9, 1998.

10.   SRI owns the '203, '338 and '615 patents

11.   The Patents-in-Suit relate generally to securing computer networks by monitoring and detecting suspicious activity.

12.   ISS designs and develops in the United States, makes, uses, sells and offers for sale and has made, used, sold or offered for sale in the United States and abroad intrusion detection, prevention, and security management products under the RealSecure, Proventia, and SiteProtector names and uses, sells, and offers for sale in the United States and abroad managed security services, threat analysis services, and security consulting services.

13.   SRI asserts all three Patents-in-Suit against ISS; and asserts two of the

Patents-in-Suit, the '203 and '615 patents, against Symantec.

14.   The following references constitute 102(b) prior art printed publications:

P. Porras and P. Neumann, "EMERALD: Event Monitoring Enabling
Responses to Anomalous Live Disturbances," Proceedings of the 20th
National Information Systems Security Conference, pp. 353-365, October 9,
1997 ("EMERALD 1997") (DTX-356).

"NetRanger User's Guide Version 1.3.1," WheelGroup Corporation,
1997.

L.T. Heberlein, G.V. Dias, K. N. Levitt, B. Mukherjee, J. Wood, D. Wolber., "A
Network Security Monitor," Proc. 1990 Symposium on Research in Security and
Privacy, pp. 296-304, May 1990. (See SRI's Responses to Symantec's Third
Set of RFAs, #12)

L.T. Heberlein, B. Mukherjee, K.N. Levitt., "A Method to Detect Intrusive
Activity in a Networked Environment," Proc. 14th National Computer Security
Conference, pp. 362-371, Oct. 1991. (See SRI's Responses to Symantec's
Third Set of RFAs, #14)

S.R. Snapp, J. Brentano, G.V. Dias, L.T. Heberlein, C. Ho, K.N. Levitt, B.
Mukherjee, (with S.E. Smaha, T. Grance, D.M. Teal, D.L. Mansur), "DIDS --
Motivation, Architecture, and an Early Prototype" Proc. 14th National
Computer Security Conference, Washington, DC, Oct. 1991, pp. 167-176. (See
SRI's Responses to Symantec's Third Set of RFAs, #19).

L.T. Heberlein, B. Mukherjee, K.N. Levitt, "Internetwork Security Monitor,"
Proc. of the 15th National Computer Security Conference, October 1992, pp.
262-271. (See SRI's Responses to Symantec's Third Set of RFAs, #48).

Y. Frank Jou et al., "Architecture Design of a Scalable Intrusion Detection
System for the Emerging Network Infrastructure," Technical Report CDRL
A005, Dept. of Computer Science, North Carolina State University, April 1997
("JiNao Report")

15.   It is not disputed that the EMERALD 1997 publication described and

enabled the following:

a.   "method for monitoring an enterprise network"

3

b. "deploying a plurality of network monitors in the enterprise network"

c. "detecting, by the network monitors, suspicious network activity based on analysis of network traffic data, wherein at least one of the network monitors utilizes a statistical detection method"

d. "generating, by the monitors, reports of said suspicious activity"

e. "automatically receiving and integrating the reports of suspicious activity, by one or more hierarchical monitors"

f. "wherein integrating comprises correlating intrusion reports reflecting underlying commonalities"

g. "wherein the plurality of network monitors includes an application programming interface (API) for encapsulation of monitor functions and integration of third-party tools"

h. "an enterprise network monitoring system"

16.   The following products were in public use and/or on-sale in this country more than one year prior to November 9, 1998 and therefore constitute 102(b) prior art:

ISS's RealSecure Software versions 1.0, 1.1, 1.2, 1.2.1, 1.2.2, and 1.0 for Windows NT